

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

GERARDO DOCENA, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

NAVY FEDERAL CREDIT UNION, a
Virginia Corporation,

Defendant.

3:15-CV-00184-LRH-WGC

ORDER

Before the court is defendant Navy Federal Credit Union's ("Navy Federal") Rule 58(d) Request to Enter Separate Document Judgment (ECF No. 34). No opposition has been filed, Navy Federal's request followed the court's order (ECF No. 33) granting Navy Federal's Motion to Dismiss Plaintiff's Complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure, and the court will treat Navy Federal's Request as a motion.

Rule 58 generally provides that "[e]very judgment and amended judgment must be set forth on a separate document" Rule 58 is a "mechanical rule" that must be "mechanically applied" to avoid uncertainties as to the date a judgment is entered. *United States v. Indrelunas*, 411 U.S. 216, 222, 93 S.Ct. 1562, 36 L.Ed.2d 202 (1973), disavowed in part on other grounds, *Bankers Trust Co. v. Mallis*, 435 U.S. 381, 386 n. 7, 98 S.Ct. 1117, 55 L.Ed.2d 357 (1978) (per curiam). A "judgment," as used in the Federal Rules of Civil Procedure, is defined by Rule 54(a) to include "a decree and any order from which an appeal lies." Fed.R.Civ.P. 54(a). Under U.S.C. § 1291, a judgment is final and appealable if the decision "ends the litigation on the


1 merits and leaves nothing for the court to do but execute the judgment.” *Gulfstream Aerospace*
2 *Corp. v. Mayacamas Corp.*, 485 U.S. 271, 275, 108 S.Ct. 1133, 99 L.Ed.2d 296 (1988) (quoting
3 *Catlin v. United States*, 324 U.S. 229, 233, 65 S.Ct. 631, 89 L.Ed. 911 (1945)).

4 Good cause appearing, Navy Federal’s Motion to Enter Separate Document Judgment
5 (ECF No. 34) is **GRANTED subject to the following limitation:**

6 In the event plaintiff concludes that amendment of his complaint can cure a substantive
7 deficiency upon which the court’s order of dismissal was based, plaintiff shall have twenty (20)
8 days from the entry of this order to amend his complaint. If an amended complaint is filed,
9 defendant shall respond accordingly. If an amended complaint is not filed, the Clerk of Court
10 shall enter the judgment of dismissal of this action.

11 IT IS SO ORDERED.

12 DATED this 22nd day of March, 2016.


13 LARRY R. HICKS
14 UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26
27
28